



February 14, 2014

ENGROSSED SENATE BILL No. 63

DIGEST OF SB 63 (Updated February 12, 2014 3:25 pm - DI 69)

Citations Affected: IC 35-46; IC 35-50.

Synopsis: Nonsupport of a child. Changes the penalty enhancement for nonsupport of a child from a Level 6 felony to a Level 5 felony if the person has a previous conviction for the offense. Changes the procedure for a court to lower the penalty for a person convicted of nonsupport of a child. (The introduced version of this bill was prepared by the criminal law and sentencing policy study committee.)

Effective: July 1, 2014.

Young R Michael, Delph, Randolph

(HOUSE SPONSORS — MCMILLIN, STEUERWALD)

January 7, 2014, read first time and referred to Committee on Corrections & Criminal Law.
January 15, 2014, amended, reported favorably — Do Pass.
January 21, 2014, read second time, ordered engrossed. Engrossed.
January 23, 2014, read third time, passed. Yeas 38, nays 10.

HOUSE ACTION

February 4, 2014, read first time and referred to Committee on Courts and Criminal Code.
February 13, 2014, amended, reported — Do Pass.

ES 63—LS 6257/DI 107



February 14, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED SENATE BILL No. 63

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-46-1-5, AS AMENDED BY P.L.158-2013,
2 SECTION 552, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) A person who knowingly or
4 intentionally fails to provide support to the person's dependent child
5 commits nonsupport of a child, a Level 6 felony. However, the offense
6 is a Level 5 felony if ~~the total amount of unpaid support that is due and~~
7 ~~owing for one (1) or more children is at least fifteen thousand dollars~~
8 ~~(\$15,000). the person has a previous conviction under this section.~~
9 (b) It is a defense that the child had abandoned the home of the
10 child's family without the consent of the child's parent or on the order
11 of a court, but it is not a defense that the child had abandoned the home
12 of the child's family if the cause of the child's leaving was the fault of
13 the child's parent.
14 (c) It is a defense that the accused person, in the legitimate practice
15 of the person's religious belief, provided treatment by spiritual means
16 through prayer, in lieu of medical care, to the person's dependent child.

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(d) It is a defense that the accused person was unable to provide support.

SECTION 2. IC 35-50-2-6, AS AMENDED BY P.L.158-2013, SECTION 659, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) A person who commits a Class C felony (for a crime committed before July 1, 2014) shall be imprisoned for a fixed term of between two (2) and eight (8) years, with the advisory sentence being four (4) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).

(b) Notwithstanding subsection (a); if a person has committed nonsupport of a child as a Class C felony under IC 35-46-1-5 (for a crime committed before July 1, 2014); upon motion of the prosecuting attorney, the court may enter judgment of conviction of a Class D felony under IC 35-46-1-5 and sentence the person accordingly. The court shall enter in the record detailed reasons for the court's action when the court enters a judgment of conviction of a Class D felony under this subsection.

(c) (b) A person who commits a Level 5 felony (for a crime committed after June 30, 2014) shall be imprisoned for a fixed term of between one (1) and six (6) years, with the advisory sentence being two (2) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).

(d) Notwithstanding subsection (c); if a person has committed nonsupport of a child as a Level 5 felony under IC 35-46-1-5 (for a crime committed after June 30, 2014); upon motion of the prosecuting attorney, the court may enter judgment of conviction of a Level 6 felony under IC 35-46-1-5 and sentence the person accordingly. The court shall enter in the record detailed reasons for the court's action when the court enters a judgment of conviction of a Level 6 felony under this subsection.

(c) Notwithstanding subsections (a) and (b), if a person commits nonsupport of a child as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014) under IC 35-46-1-5, the sentencing court may convert the Class C felony conviction to a Class D felony conviction or a Level 5 felony conviction to a Level 6 felony conviction if, after receiving a verified petition as described in subsection (d) and after conducting a hearing in which the prosecuting attorney has been notified, the court makes the following findings:

(1) The person has successfully completed probation as required by the person's sentence.

(2) The person has satisfied other obligations imposed on the



1 person as required by the person's sentence.

2 (3) The person has paid in full all child support arrearages
3 due that are named in the information and no further child
4 support arrearage is due.

5 (4) The person has not been convicted of another felony since
6 the person was sentenced for the underlying nonsupport of a
7 child felony.

8 (5) There are no criminal charges pending against the person.

9 (d) A petition filed under subsection (c) must be verified and set
10 forth the following:

11 (1) A statement that the person was convicted of nonsupport
12 of a child under IC 35-46-1-5.

13 (2) The date of the conviction.

14 (3) The date the person completed the person's sentence.

15 (4) The amount of the child support arrearage due at the time
16 of conviction.

17 (5) The date the child support arrearage was paid in full.

18 (6) A verified statement that no further child support
19 arrearage is due.

20 (7) Any other obligations imposed on the person as part of the
21 person's sentence.

22 (8) The date the obligations were satisfied.

23 (9) A verified statement that there are no criminal charges
24 pending against the person.

25 (e) A person whose conviction has been converted to a lower
26 penalty under this section is eligible to seek expungement under
27 IC 35-38-9-3 with the date of conversion used as the date of
28 conviction to calculate time frames under IC 35-38-9.



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 63, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 3, delete "." and insert "**and no further child support arrearage is due.**".

Page 3, line 28, delete "IC 35-38-9-4" and insert "**IC 35-48-9-3**".
and when so amended that said bill do pass.

(Reference is to SB 63 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 6, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 63, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, delete lines 9 through 10.

Page 3, line 29, delete "35-48-9-3" and insert "**35-38-9-3**".

and when so amended that said bill do pass.

(Reference is to SB 63 as printed January 16, 2014.)

MCMILLIN, Chair

Committee Vote: yeas 11, nays 0.

